

## APPENDIX

### Valley Forge Headquarters Corporation Dissolved

#### QUESTION: How to Distribute Fund?

IN THE COURT OF COMMON  
PLEAS OF MONTGOMERY COUNTY,  
PENNSYLVANIA.

OF JUNE TERM, A. D. 1910, NO.  
32.

IN RE-AUDIT OF THE ACCOUNT OF  
THE CENTENNIAL AND MEMORIAL  
ASSOCIATION OF VALLEY FORGE  
ON PETITION FOR DISTRIBUTION.

TO THE HONORABLE, THE  
JUDGES OF SAID COURT:

THE UNDERSIGNED, appointed  
Auditor to make distribution of the fund  
of fifteen thousand, five hundred and  
sixty-six dollars and fifty cents (\$15,566.-  
50) remaining in the hands of the direc-  
tors and officers of said Association, and  
of its accrued and accruing interest, to  
the parties legally entitled to the same,  
and to report his findings of fact and  
conclusions of law,

#### RESPECTFULLY REPORTS:

1. That, after having been duly quali-  
fied, and after giving due public and  
timely notice once a week for three weeks,  
in the daily newspapers of Norristown,  
to wit: The "Herald," "Times" and  
"Register" and in the "Montgomery  
County Law Reporter," of the time and  
place of holding his first meeting, as di-  
rected by the Court, he was met, in pur-  
suance of said notice, at his office, No.  
1 East Airy street, in the borough of  
Norristown, Pa., on Tuesday, the 26th  
day of July, A. D. 1910, at 10 o'clock  
A. M., by the following persons, viz:

Hon. R. H. Koch and James H. Wolfe,  
Esq., attorneys for H. J. Stager, secre-  
tary of The Centennial and Memorial As-  
sociation of Valley Forge, and trustee  
for P. O. S. of A. holding 3600 shares of  
stock in said association, and as an in-  
dividual shareholder;

Ex-Governor Samuel W. Pennypacker,  
Richmond L. Jones, Esq., and J. P.  
Hale Jenkins, Esq., attorneys for the  
Commissioners of Valley Forge Park;

Mrs. Joseph Fornance, Regent, and  
Miss Emeline H. Hooven, attorney re-  
presenting the Valley Forge Chapter of  
the Daughters of the American Revolu-  
tion;

Rev. W. Herbert Burk, representing  
himself and others, as shareholders; and  
H. J. Stager.

2. The fund for distribution was claim-  
ed by shareholders, by the Commissioners

of Valley Forge Park, and by the Daugh-  
ters of the American Revolution.

3. The allegations and proofs of the  
claimants were heard, reduced to writing,  
and are hereto attached.

4. A second meeting was held, after  
enlargement of the order to the Auditor,  
at the same place, on Friday, the 16th day  
of September, 1910, at 10 o'clock, A.  
M., which was attended by Counsel for  
H. J. Stager, Trustee, the Attorneys for  
the Commissioners of Valley Forge Park,  
and by H. J. Stager; and further testi-  
mony was taken and argument of Coun-  
sel was heard.

5. A third meeting was held on the 5th  
October, 1910, at the office of the Audi-  
tor, which was attended by Hon. R. H.  
Koch, of Counsel for H. J. Stager, Sec-  
retary of The Centennial and Memorial  
Association of Valley Forge; Hon. Sam-  
uel W. Pennypacker and J. P. Hale  
Jenkins, Esq., of Counsel for the Valley  
Forge Park Commission; and Miss Eme-  
line H. Hooven, Attorney for the Valley  
Forge Chapter, Daughters of the Ameri-  
can Revolution; and H. J. Stager, and  
Mrs. Rebecca McInnes, Regent of The  
Centennial and Memorial Association of  
Valley Forge. Miss Hooven presented  
resolutions adopted by the Valley Forge  
Chapter, D. A. R., claiming the fund  
for distribution "on account of Mrs.  
Anna Morris Holstein being the organizer  
and First Regent of the Valley Forge  
Centennial and Memorial Association,  
and also organizer and First Regent  
of the Valley Forge Chapter, D. A. R.;  
authorizing the present Regent, Mrs. El-  
len Knox Fornance, and her Attorney,  
Miss Emeline Henry Hooven, to appear  
before the Auditor and request him to  
award said fund to said Valley Forge  
Chapter, D. A. R.; declaring, on receiv-  
ing said money, they will use the same  
to erect, at Valley Forge, a monument in  
honor of Washington and the Continen-  
tal Army encamped at Valley Forge;  
and appointing Miss Hooven the Attor-  
ney for said Chapter.

6. Subsequently much time was spent  
in completing and correcting the list of  
stockholders furnished by Mr. Stager, and  
comparing the same with the stock books,  
etc., which are stored at Washington's  
Headquarters, in charge of the Valley  
Forge Park Commission.

#### HISTORY OF THE CASE.

The Centennial and Memorial Associa-  
tion of Valley Forge.

"The Centennial and Memorial Asso-  
ciation of Valley Forge" was duly incor-



porated under the General Corporation Act of 29th April, 1874, and its Supplements, by the Court of Common Pleas of Montgomery County, Penna., on the 5th July, A. D. 1878. It was the outgrowth of "The Valley Forge Centennial Association," which had successfully arranged for and carried out the celebration of the 100th Anniversary of the Evacuation of Valley Forge. To the noble band of patriotic women, aided by a few liberal-hearted citizens, who composed the Centennial Association, was assigned the task of deciding upon a fitting memorial to commemorate the first great event of the occupation and evacuation of the hills, forts and earthworks of Valley Forge and the close of the first century here. "It was suggested that no more fitting memorial could be designed than Washington's Headquarters, which had already stood the storms of more than one hundred years, and was filled with precious memories of the great Chieftain whose home it had been during the most trying memorable days of the Revolutionary struggle."

The purpose of the Association, as expressed in its Charter, was "to purchase, improve and preserve the lands and improvements thereon, occupied by General George Washington, at Valley Forge, and maintain them as a memorial park for all time to come."

The Association was authorized to have a Capital Stock not exceeding \$500,000, the par value thereof not to be less than One Dollar per share.

The business was to be transacted in Montgomery County, Pa., and the Charter was to be perpetual.

The incorporators were Wm. H. Holstein, of Upper Merion; John D. Eckman, of Upper Merion; Theo. W. Bean, of Norristown, Pa.; Anna M. Holstein, of Upper Merion; Rebecca McInnes, of Bridgeport; Helen C. Hooven, of Norristown, Pa., and J. P. Hale Jenkins, of Norristown, Pa.

The By-Laws provided for the sale of shares of stock, the issue of Certificates therefor to subscribers, and the transfer and voting of the same; also, for holding annual and special stockholders' meetings. The officers were to consist of a Regent, two Vice Regents, Secretary, Treasurer, twenty-one Directors, and an Executive Committee of five members, selected annually by the Board of Directors from their number. The Executive Committee were to have direct management and supervision of the Headquarters and other property, and the collection and arrangement of relics, make expenditures of such funds as the directors might, from time to time, direct, meet quarterly, inspect the property, and report to the Directors.

Mrs. Anna M. Holstein was elected as the first Regent. The patriotic women who were actively connected with the Association appealed to patriotic sisters throughout the country, and by personal contributions, fetes and various entertainments, collected about \$3000.

The Association, in 1879, purchased Washington's Headquarters, including 1½ acres of land, for \$6000, one-half of which was secured by mortgage. The land adjoining the Headquarters was rented to a tenant. A Janitor's Lodge was erected. An acre or more of additional ground, including the Washington Camp Spring, were purchased in 1889, as was also, in 1904, the adjoining property known as the Crawford property, holding the stone barn which served as a Hospital during the Revolutionary encampment.

The Association acquired altogether about five acres of ground and expended about \$14,000 upon the purchase. A House Executive Committee had supervision of the property affairs. A Warden was employed at a salary of \$360 per annum, with free house rent and privileges of ground. Absolutely no return was made for service except to the Warden; all others performed their duties without recompense, and attended the meetings at their own expense.

The Headquarters and grounds were thrown open to the public, but an admission fee of ten cents each was charged to enter the Headquarters. Other sources of income were the sale of Certificates of Stock, pictures and mementoes, and donations of small sums of money, \$5.00 or \$10.00, aggregating between 1886 and 1893 about \$50.00.

The revenues of the Association, despite the efforts of its members, were insufficient to pay the accruing interest of the \$3000 mortgage against the Headquarters. An earnest and successful appeal for aid was made to the Patriotic Order Sons of America, at its Convention held at Norristown, in 1885. An official excursion was made to Valley Forge during the Convention days. Later on, during the administration of Henry J. Stager, State President, the State Executive Committee held a meeting at Headquarters, in January, 1886, and unqualifiedly endorsed the patriotic project to liquidate the debt then resting upon Washington's Headquarters at Valley Forge, and resolved to give the fullest aid, support and official influence towards a successful achievement of the noble work.

In the following year the order paid all the indebtedness of the association, including the \$3000 mortgage, and received in return 3600 shares of stock and a controlling voice in the management of the association.



In 1887 (Act 13th April, 1887 P. L. 52), the State Legislature appropriated \$5000 for the improvement, extension and preservation of the lands and buildings occupied by General George Washington, as his headquarters at Valley Forge, during the winter of 1777 and 1778. With this money the headquarters were restored to their original condition so far as possible, a janitor's lodge was erected, the grounds were improved generally and additional land was purchased. More than seven thousand visitors were yearly attracted to this beautiful and hallowed spot.

#### THE VALLEY FORGE PARK COMMISSION.

The Valley Forge Park Commission was created under the act of 30th May, 1893, P. L. 183, "for the acquisition by the State of certain ground at Valley Forge for a public park," and the Legislature appropriated the sum of \$25,000 towards the acquisition of title to, and ownership of, the ground covering the site on which the Continental Army, under General George Washington, was encamped during the winter of 1777-8, comprising about two hundred and fifty acres. "BUT NOT INCLUDING THEREIN THE PROPERTY KNOWN AS WASHINGTON'S HEADQUARTERS AND NOW OWNED BY THE CENTENNIAL AND MEMORIAL ASSOCIATION OF VALLEY FORGE."

The Commission was to comprise ten citizens of the State, appointed by the Governor, Hon. Robert E. Pattison. They were to serve five years without compensation. They were to organize annually. Provision was made for supplying vacancies. They were authorized and directed to secure said grounds and afterwards adopt plans for their improvement, preservation and maintenance, and carry the same into execution.

In 1895 (Act 3d July, 1895, P. L. 508) the Legislature made an additional appropriation of \$10,000 to complete the purchase or as condemnation money for lands taken for a public park by the Park Commissioners, and authorizing the Commissioners to accept, on behalf of the State, gifts of money or adjacent or contiguous lands for the purposes of a public park; and to permit the United States of America or any of the States thereof, to erect monuments or other memorials on park grounds upon terms and conditions deemed suitable to the Commissioners.

In 1901 (Act of 18th July, 1910, P. L. 748) \$2000 of a \$7500 appropriation was approved for the purpose of laying out and maintaining new roads and paths in said park.

In 1903 (Act 19th March, 1903, P. L.

37) the Legislature provided for the acquisition of additional ground for park purposes, in all not exceeding five hundred acres, "but not including \* \* \* Washington's Headquarters \* \* \* owned by the Centennial and Memorial Association of Valley Forge," and providing for police regulations. The Hon. Samuel W. Pennypacker, of counsel for the Park Commissioners, was then Governor, and approved the act.

The commission, in its report of 1904, called attention to the ten cent fee charged for admission to Washington's Headquarters, and recommended the acquisition of the property by the State. Favorable action was taken by the Legislature at its next session.

In 1905, accordingly (Act 7th April, 1905, P. L. 117), the same Governor made it possible, by his approval of the legislative act, to acquire still more ground for public park purposes, in all not exceeding 1000 acres, BUT NOT, AS HERETOFORE, EXCEPTING AND EXCLUDING WASHINGTON'S HEADQUARTERS, OWNED BY THE CENTENNIAL AND MEMORIAL ASSOCIATION OF VALLEY FORGE.

In 1907 (Act of 28th May, 1907, P. L., 285,) the Park Commissioners were empowered to grant to railroad companies the right to connect their termini by tunnel beneath the park, without encroachment upon or interference with the surface of the park.

#### STATE APPROPRIATIONS.

Since the creation of the Park Commission the Legislature has made appropriations to it as follows:

1893.	For the purchase or condemnation of lands and making the old forts and intrenchments accessible to the public..	\$25,000
1895.	To complete the purchase or condemnation money for lands already taken by the State for a public park known as Valley Forge.....	10,000
1901.	For laying out and maintenance of roads and paths .....	\$2,000
	Incidental and necessary expenses of Commissioners ....	200
		<hr/> 2,200
1903.	For purchase or condemnation money .....	\$61,000
	Laying out and maintenance of roads .....	5,500
	Fencing the lands .....	2,500



Balance due upon judgment against the Commonwealth for lands condemned .....	1,500	
Future care, preservation and maintenance of redoubts and intrenchments and lands.....	3,500	
Incidental and necessary expenses of Commissioners .....	500	
		74,500
1905. For purchase or condemnation money of lands	\$40,000	
Laying out and improvement of roads .....	45,250	
Painting and construction of fences .....	3,500	
Securing water supply .....	1,000	
Purchase and erection of proper markers of position of troops.	3,000	
Erection and construction of observatory ...	5,000	
Maintenance of redoubts and intrenchments and future care of lands and employment of superintendent ..	13,615	
Erection and construction of a stable .....	500	
Purchasing old cannon .....	500	
Planting trees...	500	
Purchasing fertilizers and work on lawns	1,200	
Erection of 3 guard houses...	750	
Necessary expenses of Commissioners ....	1,000	
		\$115,815
1907. Maintenance, etc. of roads and paths .....	20,000	
Construction of fences and painting same and observatory ....	500	
Erection of markers showing location of Penna. Brigades	8,000	
		28,500

1909. Building and maintenance, etc., of roads and paths.....	15,000	
Purchase and planting of trees and shrubbery .....	1,000	
Maintenance, etc., of redoubts and intrenchments and care of lands, etc...	30,000	
Providing lawns.	1,500	
Necessary expenses of Commissioners ....	1,000	
Building gun carriages .....	2,600	
		51,100
		\$307,115

It may be permissible to say, in passing, that of this total appropriation, \$190,315, or nearly two-thirds thereof, were approved by the Hon. Samuel W. Pennypacker, then Governor and now of counsel for the Park Commission, while Governor Stone, in 1901, approved of only \$2200 of an appropriation of \$13,000 asked for, and Governor Stuart, in 1907 and 1909, cut down a desired appropriation of \$177,730 to \$79,600.

CONDEMNATION OF WASHINGTON'S HEADQUARTERS.

On the 3d of July, 1905, the Park Commissioners, being JOHN W. WOODSIDE, W. H. SAYEN, EDWARD A. PRICE, A. H. BOWEN, HENRY A. MUHLENBERG, SAMUEL S. HART-RANFT, J. P. HALE JENKINS, M. G. BRUMBAUGH, JOHN P. NICHOLSON and W. A. PATTON, presented their petition to the Court of Quarter Sessions of the Peace in and for Montgomery County, Pa., setting forth, inter alia, the Acts of Assembly relating to the Commission and the acquisition of land for Valley Forge Park; that by resolution passed by said Commission on the 26th of June, 1905, it appropriated for park purposes a tract of 4.98 acres of land belonging to the Centennial and Memorial Association of Valley Forge, popularly known as Washington's Headquarters at Valley Forge; and they were unable to agree with the Association upon a price therefor; and praying, in behalf of said Commonwealth of Pennsylvania, for the appointment of a jury to ascertain and determine the value which should be paid to the Association for the premises appropriated and condemned.

On the same day a jury of three viewers was appointed by the court, and an order issued to them to view and value said premises.

The Centennial and Memorial Associa-



tion of Valley Forge filed a bill in equity in said court for an injunction to restrain the Park Commissioners from proceeding under said order of the court, but a rule to show cause why a preliminary injunction should not issue was discharged by the court.

At the hearings before the viewers it appeared in evidence that the State had appropriated (Act 13th April, 1887, P. L. 52) to the Centennial and Memorial Association of Valley Forge the sum of \$5000 to improve, extend and preserve Washington's Headquarters.

On the 9th of November, 1905, the viewers assessed the damages sustained by said Association at \$18,000, and on the 4th of December, 1905, filed their report in court, and the same was confirmed nisi, and subsequently, 9th of May, 1906, absolutely, no exceptions having been filed.

#### DISSOLUTION PROCEEDINGS.

The Centennial and Memorial Association of Valley Forge, having been deprived of all its property, real and personal, by the above-mentioned condemnation proceedings on behalf of the Commonwealth of Pennsylvania, presented its petition to said court on the 2d of May, 1910, setting forth, inter alia, its incorporation, its purpose, the defeat of its purpose by said condemnation, the resolution of a majority in interest of the stockholders of said Association to dissolve, the authorization and direction of the Regent and Secretary of the Association by the Directors to institute dissolution proceedings, that the Association has no debts and is not subject to taxation, and that the Treasurer, J. M. Stauffer, has a cash balance of \$15,566.50 in his hands for distribution by the court, as shown by an account attached to the petition; and praying the court for permission to surrender its powers and a decree of dissolution. The Treasurer's account shows that the balance, \$15,566.50, is on deposit in the First National Bank of Hazleton, Pa., drawing interest at the rate of 3 per cent. per annum from 12th of April, 1910, and that the same was duly audited and also approved by the Directors of the Association.

The court on the same day fixed a hearing for the 13th of June, 1910, and directed notice thereof to be given by publication.

#### PARK COMMISSIONERS' BILL IN EQUITY.

On the 9th of June, 1910, W. H. Sayen, J. P. Nicholson, Samuel S. Hartranft, J. P. Hale Jenkins, M. G. Brumbaugh, W. A. Patton, Richmond L. Jones, John W. Jordan, John T. Windrum and A. H. Bowen, Commissioners of Valley Forge Park, plaintiffs, filed in said court against

the Centennial and Memorial Association of Valley Forge, defendant, their bill in equity, being No. 1, June Term, 1910, setting forth, inter alia, the incorporation of the defendant association, its acquisition by subscriptions and voluntary contributions of Washington's Headquarters at Valley Forge IN TRUST "as a Memorial Park for all time to come," the acquisition of the same by the Commonwealth of Pennsylvania, whereby defendant Association became functus officio; the creation of the Commissioners of Valley Forge, their possession of the property of defendant association, and their charge "with every trust relating thereto as successors of the said association; said condemnation proceedings, and also said dissolution proceedings; that upon dissolution there would be no lawful custodian of the fund in the hands of the Treasurer of defendant association; and that the Commissioners of Valley Forge Park, being charged by law with the care of the property to which the said trust fund is dedicated, are, therefore, the logical successors to said trust fund; and praying the court to appoint plaintiffs, ex-officio, successors to the Centennial and Memorial Association of Valley Forge as Trustee of said trust fund, and to direct payment of the same to said successors."

#### DECREE OF DISSOLUTION.

At the hearing on the application for dissolution on the 18th of June, 1910, the plaintiffs in said bill in equity were duly represented. The court decreed; inter alia, that said Association be dissolved and its powers, franchises and privileges be thereby extinguished and determined, the decree to go into effect upon filing a certified copy thereof and recording the same in the office of the Secretary of the Commonwealth; and that the accounts of the directors and officers attached to the petition be thereby approved and confirmed.

#### ORDER OF DISTRIBUTION.

On the same day, 18th June, 1910, the Court further directed that said fund should be distributed, there being several claimants desiring to submit proofs and allegations of their rights and title to the fund, and appointed the present Auditor to make distribution of the same and its accrued and accruing interest, to the parties legally entitled thereto. The Court, at the same time, referred to the filing of said Bill in Equity and to the contention of the plaintiffs therein that they are, ex-officio, the successors to the Centennial and Memorial Association, as trustees of said fund of \$15,566.50, and accordingly intimated that "no final disposition of the fund should be made by the Auditor until said Bill is disposed of or until the rights of the plaintiffs under said Bill are adjudicated. The



Auditor, however, can hold his meeting or meetings and hear the proofs of the several claimants to the fund, in the meantime, but he will not file his report until the further order of the Court."

#### TREASURER'S INTERVENTION AND ANSWER.

On the 25th June, 1910, J. M. Stauffer, Treasurer of said Centennial and Memorial Association of Valley Forge, applied to the Court for leave to intervene as a party defendant in said Bill in Equity, and a rule to show cause, etc., was granted, returnable on the 5th day of September, 1910.

Treasurer Stauffer, on the 9th July, 1910, filed an answer to the Bill in Equity. He averred, inter alia, the filing and recording of the Court's decree of dissolution in the office of the Secretary of the Commonwealth, and that said Association had, therefore, no legal existence; denied that the declared purpose of the Association is stated in its Charter as a PUBLIC purpose; denied that the Association has become FUNCTUS OFFICIO; denied that the Commissioners of Valley Forge Park "are charged with every trust relating thereto (property formerly belonging to the Association but now in the possession of said Commissioners) as SUCCESSORS of said Association;" and averred, also, that said fund could not be disposed of under plaintiff's Bill, the same being a collateral proceeding and should be dismissed, and that he is the principal and only party in interest so far as concerns the custody of said fund until distribution be made thereof by the Court; and praying the Court that he might be hence dismissed with costs, &c.

#### ENLARGEMENT OF AUDITOR'S DUTIES.

On the 16th September, 1910, the Court made a further order that the Auditor appointed in this case "be directed to proceed with the hearing before him as Auditor, and report to the Court his findings of fact and conclusions of law."

#### THE FUND FOR DISTRIBUTION.

The amount for distribution is \$15,566.50, being the balance in the hands of J. M. Stauffer, Treasurer of the dissolved Association, as shown by his account annexed to the petition for dissolution, and accrued and accruing interest thereon.

#### CLAIMANTS OF THE FUND.

The fund for distribution is claimed by  
1. STOCKHOLDERS OF THE CENTENNIAL AND MEMORIAL ASSOCIATION OF VALLEY FORGE, to wit: H. J. STAGER, Chairman of the Board

of Trustees of the State Camp of Penna., P. O. S. of A., who, as such is custodian of Stock Certificate No. 5172 for 1400 shares at \$1.00, or \$1400; H. J. STAGER, Trustee for 3600 shares issued to him in trust for the following:

#### PENNSYLVANIA CAMPS.

Washington Camps, P. O. S. of A. Nos. 1, 6, 7, 8, 14, 27, 30, 31, 33, 34, 36, 37, 43, 46, 47, 49, 50, 51, 53, 57, 58, 61, 62, 63, 64, 65, 66, 67, 71, 72, 73, 76, 77, 78, 79, 80, 84, 85, 86, 87, 89, 91, 92, 94, 95, 96, 97, 100, 101, 103, 104, 105, 106, 108, 110, 111, 112, 114, 116, 117, 119, 120, 121, 123, 124, 125, 132, 134, 137, 142, 143, 147, 148, 149, 150, 154, 155, 156, 157, 161, 163, 165, 167, 168, 173, 178, 179, 185, 191, 192, 194, 196, 202, 206, 208, 213, 215, 218, 219, 221, 222, 224, 227, 230, 231, 233, 235, 237, 238, 239, 240, 241, 242, 243, 244, 246, 247, 248, 249, 251, 252, 253, 254, 255, 257, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 272, 274.

#### PENNSYLVANIA COMMANDERIES.

Lexington Commandery, P. O. S. of A. No. 2.  
Philadelphia Commandery, P. O. S. of A., No. 4.  
Montgomery Commandery, P. O. S. of A., No. 15.  
Garfield Commandery, P. O. S. of A., No. 21.

#### CONNECTICUT CAMPS.

Washington Camp, P. O. S. of A., No. 1.  
Washington Camp, P. O. S. of A., No. 5.

#### NEW JERSEY CAMPS.

Washington Camp, P. O. S. of A., No. 7.

Camp 53, P. O. S. of A., Ohio.  
Daughters of America, No. 1.

#### INDIVIDUALS.

J. A. Batt, J. F. Baumeister, J. F. Benner, John A. Benner, George F. Blatchford, Edward Bowser, Dr. S. A. Brecht, M. B. Brenamin, A. L. Camany, E. M. Chilcord, Cyrus Christ, E. B. Clayton, A. M. Collins, Dr. J. M. Cooper, David Davis, F. A. Davis, Cyrus Dissinger, James M. Dissinger, Joseph E. Dissinger, W. H. Dodson, John C. Donat, A. M. Eby, John M. Eby, J. A. Eichelberger, Martin Echelberger, J. F. Enycart, John Evans, G. B. Fluke, J. S. Ford, George W. Gable, Daniel J. Gensemer, George W. Gensemer, J. H. Haas, J. W. Hamilton, M. H. Hartzell, I. A. Heald, T. F. Heebner, Samuel Heiser, S. M. Helms, P. C. Hess, Charles Hoernle, E. L. Hoffer, Mrs. Anna M. Holstein (for Philadelphians); J. P. Johnson, John H. Kaufman, C. W. Hoch, James H. Hay, Grant Kline,



Charles W. Koch, J. Shindel Krause, M. C. Kriebel, H. P. Kutz, R. C. Lashell, W. J. Leeder, A. J. Leth, I. K. Little, Charles E. Logan, John McCary, John H. Mease, J. E. Neary, J. W. Niggs, John C. Norton, J. F. Painter, W. S. Painter, H. H. Pfeiffer, Ed. Printz, William Printz, Levi F. Putt, Val. Raudenbush, W. L. Ridgway, J. S. Ritchey, Henry Roberts, William R. Rorer, William Ross, H. A. Schrader, George W. Schwartz, Reynold Sedders, Robert A. Shepherd, J. W. Simon, W. E. Simons, William M. Singerly, A. J. Snowberger, H. J. Stager, E. Stees, A. F. Stokes, George W. H. Thomas, F. S. Tobias, Willis C. Tobias, J. S. Vetter, J. H. Ward, William Weand, William Weightman, D. F. White, J. W. Wilson, William Witmer, S. J. Woelfley, A. B. Zimmerman and J. Lyman Zimmerman, and Montgomery District Delegates.

Of the above-named Camps, the following became defunct after Mr. Stager became Trustee for them. Their numbers were given to new Camps of the P. O. S. of A., established at other places in Pennsylvania, viz: Nos. 8, 71, 123, 132, 168, 202, 248 and 263;

and H. J. Stager, one share, Certificate No. 3051; Rev. W. Herbert Burk, holder of Certificate No. 4205, for one share of stock issued to George Ellis and assigned to Rev. W. Herbert Burk, and of Certificate No. 4206, for one share of stock issued to Emily M. Ellis, now deceased, and assigned by her administrator to Rev. W. Herbert Burk, both assignments being approved by R. T. S. Hallowell, Secretary of the Association.

## 2. THE COMMISSIONERS OF VALLEY FORGE PARK;

## 3. THE VALLEY FORGE CHAPTER OF THE DAUGHTERS OF THE AMERICAN REVOLUTION.

### THE CONTENTION.

Distribution of the fund in question, it is conceded by the claimants, is governed by the Act of 9th April, 1856, P. L. 293, Section 1, which reads as follows, viz:

"It shall be lawful for any Court of Common Pleas of the proper county to hear the petition of any corporation, under the seal thereof, by and with the consent of a majority of a meeting of the corporators, duly convened, praying for permission to surrender any power contained in its charter, or for the dissolution of such corporation and if such court shall be satisfied that the prayer of such petition may be granted, without prejudice to the public welfare, or the interests of the corporators, the court may enter a decree in accordance with the prayer of the petition, whereupon such power shall cease, or such corporation be dissolved; Provided, That the surrender of any such power shall not in any wise remove any limitation or re-

striction in such charter; and that the accounts of the managers, directors or trustees of any dissolved company shall be settled in such court, and be approved thereby; and dividends of the effects shall be made among any corporators entitled thereto, as in the case of the accounts of assignees and trustees; Provided further, That no property devoted to religious, literary or charitable uses shall be diverted from the objects for which they were given or granted; Provided, That the decree of said court shall not go into effect until a certified copy thereof be filed and recorded in the office of the secretary of the Commonwealth."

In behalf of the stockholders it is contended that the Association is not a public charity nor was its property devoted to charitable uses; that Stager, Trustee, and the State Camp, at least, paid their money into the Association not as a gift, nor as a loan, but with the distinct understanding that their representatives should be admitted into the Association for the purpose of controlling it at all times; deny the right of the Park Commissioners to claim the fund as the legal successors of the Association; assert that the use to which the Valley Forge Chapter of the Daughters of the Revolution would devote the fund is too indefinite; that the Association's approval of the transfer of certificates of stock shows that it considered the same a thing of substantial value and not mere evidence of a gift; and that, therefore, the fund must be distributed among the stockholders; but if not to them, nor to any of the other claimants, then it would escheat under the Act of 2d May, 1889, P. L. 66.

The Park Commissioners contend that the Association existed for a charitable use within the meaning of the proviso of the Act of 1856; that said use was a public one; that the issuing of stock was a mere convenience to solicit contributions; that the purchasers of shares of stock knew the public and patriotic object of the Association, and gave their money as a gift with no thought of a pecuniary return; and that, therefore, the fund for distribution cannot revert to the donors, nor be divided among the stockholders or members, but must be applied in furtherance of the charity; and that under the Cy pres doctrine and the Act of 9th May, 1889, P. L. 173, providing.

"That no disposition of property heretofore or hereafter made for any religious or charitable use shall fail for want of a Trustee \* \* \* but it shall be the duty of any court having equity jurisdiction in the proper county to supply a trustee and by its decrees to carry into effect the intent of the donor or testator so far as the same can be ascertained and carried into effect consistent with law or equity."



It is the duty of the court not to allow this charitable use to fail for want of a trustee but, under its equitable powers, to supply a trustee and apply the fund to an object reasonably approximating the purpose of the donors, namely, the Park Commissioners who are created for a purpose identical with that of the defunct Centennial and Memorial Association and may be legally appointed a trustee for public purposes germane to its object.

The Valley Forge Chapter of the Daughters of the Revolution also lay claim to the fund, (a) "on account of Mrs. Anna Morris Holstein being the organizer and First Regent of the Valley Forge Centennial and Memorial Association, and also organizer and First Regent of the Valley Forge Chapter D. A. R.;" (b) "to erect at Valley Forge a monument in honor of Washington and the Continental Army encamped at Valley Forge, and who aided in the successful struggle for independence."

These contentions raise questions of fact involving the purpose of the Association, its method of conducting its business, its relation to the stockholders and to the public, its sources of revenue and expenditures, its relation to the P. O. S. of A. and individual Camps, and the character and functions of the Park Commission and of the Valley Forge Chapter, D. A. R.

#### FINDINGS OF CONTROLLING FACTS

##### 1. THE CENTENNIAL AND MEMORIAL ASSOCIATION OF VALLEY FORGE.

Purpose of the Association.

The purpose for which The Centennial and Memorial Association of Valley Forge was formed, was in its nature public and patriotic. In the newspaper notices of the proposed application for incorporation the object was expressed to be "to purchase, hold, and improve the Washington Headquarters of Valley Forge and lands adjacent thereto and appropriate them to historical and humane purposes;" "to historical and humane uses." The Charter expresses the purpose to be "to purchase, improve and preserve the lands and improvements thereon, occupied by General George Washington, at Valley Forge, and maintain them as a memorial park for all time to come." The decree of incorporation finds the application within the purposes named in the first class specified in the second section of the General Corporation Act of 1874, namely, for "a public park," and incorporates the subscribers to the Charter "for the purposes and upon the terms therein stated."

The By-Laws state the object of the Association to be as set forth in the Act of Incorporation and "also to col-

lect and preserve relics and objects of interest connected with the Revolutionary War, and especially with Valley Forge."

These objects and purposes were never changed or altered by amendment to the Charter or By-Laws, but were strictly adhered to by the Association.

#### CAPITAL STOCK.

This Corporation of the first class was invested with the usual powers given under the law and its charter and particularly, but perhaps unusually for corporations of that class, with the power of issuing Capital Stock. The Capital Stock was not to exceed \$500,000, and the par value was not to be less than one dollar per share. The By-Laws provided that the shares of stock should "be sold at such times and in such manner as the Board of Directors shall (should) deem proper." They were to be "issued to each subscriber, stating the number of shares subscribed and paid for by the holder," bearing the signatures of the Regent and Secretary with the seal of the Association. Transfers of stock were not to be made except endorsed upon the certificates of Stock and attested by the Secretary with the seal of the Association attached, and recorded upon the books of the Association.

So far as can be ascertained at this time, after great labor and care, the Association issued 7618 shares of stock.

Neatly printed Certificates, suitable for framing, were issued in the following form:

No. Share \$1.00  
CENTENNIAL AND MEMORIAL ASSOCIATION OF VALLEY FORGE.

1778. 1878.  
This is to certify that is entitled to one share of stock in the Centennial and Memorial Association of Valley Forge.

(Signed) ANNA M. HOLSTEIN,  
Regent.

Printed Seal  
Centennial and  
Memorial Association of  
Valley Forge.

November 9th,  
1886.

That is the form of the Certificate issued to H. J. Stager in trust for P. O. S. of A., for 3600 shares.

The Certificate issued to Pennsylvania State Camp, P. O. S. of A., for 1400 shares, is in form as follows:

STATE OF PENNSYLVANIA.  
No. 5172. \$1400.00.  
THE CENTENNIAL AND MEMORIAL ASSOCIATION.  
of Valley Forge.



THIS IS TO CERTIFY, that The Pennsylvania State Camp, P. O. S. of A., having paid Fourteen Hundred Dollars is entitled to 1400 Shares of the Capital Stock of The Centennial and Memorial Association of Valley Forge.

Transferable only on the books of the Company, in person or by attorney, upon the surrender of this Certificate.

Witness the hand of the Regent and Secretary, and the Seal of the Corporation, this 19th day June A. D., 1905

(Signed) REBECCA McINNES,  
Regent.

Attest:

R. T. S. HALLOWELL,  
Secretary.

Seal of The  
Centennial and  
Memorial Asso-  
ciation of Val-  
ley Forge.

The Certificates of Stock, No. 4205, issued to George Ellis, and No. 4206, issued to Emily M. Ellis, for one share each, were transferred on the 29th of May, 1906, and 17th of June, 1907, respectively, to Rev. W. Herbert Burk, of Norristown, Pa. They assigned their "whole right, title and interest" in said shares and constituted "him, his assigns and substitutes, my attorney and attorneys, with full power to receive, in his or their name or names, certificate for said share," and the assignments were "approved" by the Secretary of the Association under it stamped seal.

The Certificates were printed for one share only. Ninety certificates were issued for more than one share each, notably to

Hon. Heister Clymer, 20 shares.

George W. Childs, Philadelphia, contribution, \$200, 200 shares.

William M. Singerly, Philadelphia, contribution, \$50, 50 shares.

Charles W. Roberts, Chester Co., contribution, \$100, 100 shares.

Mrs. Charles W. Roberts, contribution, \$100, 100 shares.

William Weightman, Philadelphia, 50 shares.

H. J. Stager, for P. O. S. of A., representing 3600 shares.

Lincoln Institution, 308 S. Eleventh street, 25 shares.

Northern Home, presented by Emily Bell, 25 shares.

Institutional Home for Girls, by Emily Bell, 25 shares.

Clinton St. Boarding House, by Emily Bell, 25 shares.

Lombard St. Boarding House, by Emily Bell, 25 shares.

Penna. State Camp, P. O. S. of A., 1400 shares.

The certificates issued were numbered

from 1 to 106; 301 to 415; 418 to 456; 701 to 779; 1101 to 1200; 1401 to 1499; 1801 to 1994; 2801 to 2811; 3001 to 3162; 3198 to 3226; 3301 to 3334; 3400 to 3723; 3801 to 3813; 4001 to 4010; 4101 to 4150; 4201 to 4238; 4251; 4501 to 4556; 4801 to 4804; 5051 to 5063; 5101 to 5172; 5401 to 5450; 5551 to 5554; 5651 to 5684; 5851 to 5866; 6001 to 6010, all inclusive.

A number of certificates were issued in exchange for others that had been issued. Some of the stubs in the stock books were not filled up. A few certificates were cancelled, and a few others were returned. Certificate No. 3541 was destroyed, and No. 3547 was "sacrificed to a mistake in penmanship." Certificates No. 4101 to 4109 inclusive, were duplicated. A large number of certificates remained unissued. The residence address of most of the subscribers is given in the stub books. Most of the subscribers are Pennsylvanians, representing all parts of the State, but some hail from Iowa, Ohio, District of Columbia, New York, Illinois, Montana Territory, Massachusetts, Minnesota, New Jersey, California, Connecticut, Wyoming, Michigan, West Virginia, Vermont, Delaware, Colorado and Kentucky.

Certificates for one share of stock were issued to some of the most prominent and patriotic citizens of the Union, to children, one to "— Clegg (infant not named)," to Normal Schools, High Schools, Public Schools, Library Societies, Co. E., 4th Regiment, N. G. P. Hamburg, Chamber of Commerce, Phila., Commercial Exchange of Phila., "In Memoriam," of Commodore Stephen Decatur, Lieutenant S. D. McKnight, Lieut. Wm. D. Hunt, Major Levi Twiggs, U. S. M. C. and Lieut. Geo. D. Twiggs, and others; individual members of large families, Fire Engine Company, and many Camps of the P. O. S. of A.

Certificates for one share of stock each were issued to Ex-Judge R. H. Koch and James H. Wolfe, Esq., Counsel for H. J. Stager, but the names of the patriotic Counsel for the Park Commissioners are missing from the list although ex-Governor Pennypacker bought shares of stock for himself and for each member of his family and has the certificates and Mr. Jenkins also is the owner of one share. The Auditor is not disqualified by reason of direct interest as a shareholder. The residences of many subscribers are not given or known. Some of the subscribers are known to be deceased.

The names and addresses of stockholders and the number of shares for which certificates of stock were issued to them are, so far as ascertainable, set forth in Schedule "A," hereto attached. The list is by no means full and complete. The records prior to 1886 are incomplete. A list was prepared at one time by Secre-



tary Wm. H. Holstein, from the old records of the Association, but was not considered complete. Many shares were issued prior to 1886 of which no record was kept.

#### NO DIVIDENDS.

The Association did not provide in its Charter or By-Laws for declaring or paying dividends, had no dividend book, never paid any dividend, and, according to H. J. Stager, never expected to divide any monies among the stockholders, as "the whole object of the Association was to maintain the Headquarters and the land associated with it as a memorial."

#### RELATION TO THE PUBLIC.

The grounds and Washington's Headquarters were thrown open to the public, admission to the former being free and to the latter ten cents. The historic spot has become a Mecca at the shrine of which thousands of patriots the world over worship annually.

#### SOURCES OF REVENUE

The revenues of the Association came from the following sources:

Personal contributions, proceeds of fetes and entertainments, \$3000; issue of certificates of stock, \$7618; donations in sums of \$5 or \$10, between 1886 and 1893, \$50; admission fee of ten cents to Washington's Headquarters, not shown; sale of pictures and souvenirs, not shown; State appropriation, 1887, \$5000. Less than \$25,000 was received from all sources. The funds were not kept separate, nor were separate accounts kept.

#### EXPENDITURES.

The proceeds from the sale of souvenirs and from admission fees were used to pay the janitor and caretaker, taxes and current expenses. The warden was paid a salary of \$360 per annum. All other officials served without compensation and without reimbursement for traveling expenses. About \$14,000 were expended on grounds and buildings. The lodge cost about \$3000, and repairs to the Headquarters and other indebtedness were paid and satisfied through the efforts of the P. O. S. of A. in Pennsylvania. The \$5000 received from the State was expended in the purchase of additional ground, the erection of a janitor's lodge, the improvement of the grounds, and the restoration of the Headquarters to their original condition.

#### The P. O. S. of A.

The Patriotic Order Sons of America in Pennsylvania played a noble and patriotic part in the affairs of the Centennial and Memorial Association of Valley Forge, due chiefly to the energy and un-

selfish patriotism of H. J. Stager, one of the claimants of the fund as trustee for various camps and individuals. His record as a Patriotic Son of America is a proud and enviable one. He was the first National President of the Order, National Secretary for 13½ years, and for several years Secretary of the Mortuary Fund. He was one of the original incorporators of State Camp in 1867, under a special Act of Assembly. He served as State Secretary during 17½ years, State President for 1 year from 1885 to 1886, and Chairman of the State Board of Trustees for 30 years. He founded the "Camp News" in 1867, and was its editor until 1904. When he was President, in 1885, and the Association, through Camp 114, at Norristown, Pa., appealed to the Patriotic Order at its convention held at Norristown in that year, an official excursion was made during the convention days to Valley Forge, and in January, 1886, the State Executive Committee held a meeting at Washington's Headquarters and endorsed the patriotic project to liquidate the Association's debts, including the \$3000 mortgage against the Headquarters, and resolved to give the fullest aid and official influence to a successful achievement of the noble work.

On the 19th January, 1886, the State Executive Committee, of which Mr. Stager was the head, sent a neatly printed circular letter in pamphlet form to the various camps calling attention to the \$3000 mortgage indebtedness against Washington's Headquarters at Valley Forge, which had been "purchased by a number of patriotic ladies who organized themselves into a society known as "The Centennial and Memorial Association of Valley Forge," that the order had been "appealed to for aid in freeing this cherished historic ground from debt, in order that it may be the more effectively dedicated to the patriotic uses intended by its purchase;" that "Valley Forge and its sacred historic associations appeal to the Patriotic Order Sons of America," and that "it will be an honor for our noble order to redeem this indebtedness and be an equitable and joint owner of the premises secured by the purchasers." \* \* \* "The premises will be self-supporting when paid for—the revenue from visitors will be ample to keep them in good order and repair." The Executive Committee further suggested that "with due care the Mansion House of the Great Commander-in-Chief and Lady Washington can be preserved for many centuries, and will become a shrine of American patriotism." Further, "Let us with one heart join the noble band of American women who have honorably resolved that the purchase money shall be paid."

The letter then states that the Execu-



tive Committee on January 9th, 1886, gave its unqualified endorsement of the patriotic project to liquidate said debt, commends "the consideration of this worthy enterprise to each camp" and asks "the earnest and fraternal co-operation" of the members of the order "within this State and Union," who should consider it a "privilege as well as a duty to do something in behalf of this worthy and praiseworthy object," and "in view of this patriotic project" requests each camp to make special occasion of Washington's Birthday, February 22, 1886, by public entertainment or otherwise, and devote the proceeds to the aforesaid purpose," "contributions for the fund" to be forwarded to the State President.

On April 5th, 1886, Mrs. Anna M. Holstein, Regent of the Centennial and Memorial Association of Valley Forge, said in a letter addressed to H. J. Stager, State President, after thanking him for "Camp News" of April 1st, and expressing a feeling of gratification at the earnest response of the Patriotic Order working for the Valley Forge Fund, which indicated, at no distant day, a grand success, "a result which will forever associate the P. O. S. of A. with Washington's historic Headquarters at Valley Forge, and give to them honor as enduring as the Republic."

Although quite a number of Camps responded, nevertheless, on April 13, 1886, State President Stager circulated among the Camps a second official letter, stating that by reason of the first appeal 35 Camps had responded, but less than one-third of the necessary amount had been contributed, and of those contributions one-half of that amount had been contributed by 5 of the practical Camps, there being in the whole State 143 Camps and 16 Commanderies, interrogating, "Was there ever a stronger appeal for financial aid to show the practical patriotism of our Order than this, and could we permit another to step in our place and relieve us of the labor and high honor of success in this noble work?" The appeal continues:

"The money is asked not to be loaned, nor is it an investment to give interest. It is simply this—'Will the Sons of America purchase the first and only mortgage now upon the property and become its holder for all future time? In doing so the Order will become a joint owner with the aforesaid Ladies' Association, not a simple stockholder, but, in effect, the owner. After the mortgage is purchased, its value can, if desired, be turned into the Association for so many shares of stock (one for each dollar) and the order become entitled to all its franchises. We see no advantage, however, exceeding the office of first mortgage

holder, yet that is an after question which the purchasers may determine at the proper time.

"It is proposed in the assignment to recite the number of each Camp contributing \$25, or over, about as follows: 'To Washington Camps, Nos — (name all \$25 contributors and over), and all others holding certificates of contribution signed by the State Executive Committee of Pennsylvania.'"

The letter continues: "Let us show our deep abiding love for the hallowed associations clustering around this sacred building, and a never-failing veneration of the many sacrifices our illustrious sires made to secure our present liberties, by an immediate response to the call for funds wherewith to cancel the mortgage."

\* \* \* \* \*

"Individual contributions may also be made."

\* \* \* \* \*

"Each contributor in the sum of \$1 or over will receive a neat certificate, which will look well in frame and be a fitting adornment for the wall of a Camp Room."

A third official appeal was sent to the subordinate Camps by the State Executive Committee, July 24th, 1886, in which it was asserted that: "Thus far one-third of our Camps in this State alone have contributed \$2200—about three-fourths of the amount necessary. Will not the other two-thirds and the remaining one-fourth at once?"

\* \* \* \* \*

And also:

"The object is, simply to clear off the indebtedness of the \$3000 mortgage now upon Washington's Headquarters at Valley Forge. In doing so, we will not only receive a mortgage for the full amount named, but also three thousand shares of stock in the Centennial Association, which will give us a full majority vote in its future direction and care."

"The work will forever associate our cause with Washington's Headquarters at Valley Forge, and give to our Order honor as enduring as the Republic."

In a postscript was added:

"Each contributing Camp or individual sending \$1.00 or over will receive a handsomely printed certificate receipt in reply."

State President Stager, in his Valedictory Address delivered at the 21st Annual Session of the State Camps of Pennsylvania of the P. O. S. of A., held at Altoona, August 10th and 11th, 1886, in reviewing the efforts of the Order to raise sufficient funds to liquidate the mortgage indebtedness against Washington's Headquarters, said, among other things:



"I would here suggest that a committee of thirteen be selected from among our representative members of the order, who are willing to devote some time and the necessary expenditure of means to travel for the purpose of holding committee meetings, etc., to complete the work and that they have full power to act in every way. It will be impossible for this convention to accomplish the details as satisfactorily as this committee could do, and being an entirely voluntary matter in the camps, the contributors should be permitted in some way to direct the trusteeship constituted in this proposed committee of 13, and such provision should be included in the governing rules."

The committee to whom was referred the State president's address, and which was headed by James H. Wolfe, Esq., one of the attorneys in this proceeding, suggested and recommended, *inter alia*, as follows:

"As to the suggestion relative to the Valley Forge matter, we take leave to report the following resolution for your consideration:

"Whereas, The project to free the historic grounds of Valley Forge, known as Washington's Headquarters, from debt has proved a popular, prosperous and patriotic undertaking;

"Whereas, The several camps of the Patriotic Order Sons of American in the State of Pennsylvania have raised the requisite funds for said enterprise;

"And, Whereas, the glory and commendation of said project will redound to the honor and renown of our grand and distinguished order; therefore, be it

"First—Resolved, That the Patriotic Order Sons of America of the State of Pennsylvania, in annual State camp assembled, do hereby endorse, approve and commend said project and promise their unfaltering support and hearty co-operation in perfecting the final consummation of the same.

"Second—Resolved, That for the better and more effective application of the Valley Forge funds, to the purpose intended by the aforesaid project, a board of thirteen trustees be created, of which the present State president, Brother H. J. Stager, shall be chairman, with power to select his associates, said Trustees to be subject to the provisions of the Declaration of Trust governing their appointment."

Both resolutions were duly adopted by the State Camp, notwithstanding that the second resolution had previously been laid on the table.

The State camp at said session also adopted a resolution to "supply the deficit in the Valley Forge fund and that stock be issued for said amount, in the name of the State Camp;" and also, on motion of ex-Judge Koch, of counsel in

the present proceeding, "that the retiring State president, H. J. Stager, appoint a board of thirteen trustees (including himself), of which he shall be chairman, from among the delegates of this State Camp from subordinate camps having contributed \$25 and upward toward the Valley Forge fund, for the purpose of developing a scheme for the management and disposition of said fund."

The following were appointed trustees: J. H. Hoffer, Frank L. Murphy, R. H. Koch, R. T. S. Hallowell, Irwin S. Smith, W. H. Schwartz, H. A. Klock, S. M. Helms, James K. Helms, J. H. Dugan, H. R. Fleming and F. G. Hobson.

The State Camp also, by the way, took formal notice of the retirement of State President Stager from office, in a series of congratulatory resolutions "upon the unprecedented success and excellence of his administration as president of the State Camp during the year 1885-6."

The \$3000 mortgage against Washington's Headquarters was afterwards paid out of funds raised as aforesaid, and the mortgage was duly satisfied of record, and was not assigned to the P. O. S. of A., as had been first intended. From that time forward the P. O. S. of A. had a majority (13 of the 18, afterwards 21, members) of the Board of Directors. A certificate for 3600 shares of stock was issued to H. J. Stager, trustee. Later a certificate for 1400 shares of stock was issued to the Pennsylvania State Camp P. O. S. of A., on the 19th of June, 1905, which also Mr. Stager holds in trust.

At first blush it might seem that Henry J. Stager, a claimant here, had, as an individual and as a trustee for patriotic camps and individuals, cast to the winds his patriotic breathings as State President, as shown above; but on due deliberation the law puts him in a quandary. He is the legal trustee of many camps and individuals, holding 5000 certificates of stock for them, or nearly two-thirds of all the shares issued, so far as can be ascertained. If the fund in question is distributable among stockholders he is entitled to nearly \$10,000 as such trustee and is accountable to his *cestui que trustent* for that amount. Some of these may now prefer money to honor. If he stands by and allows this fund to be distributed without claim, objection or protest he violates his duties as trustee and becomes guilty of negligence. Standing in the dual capacity of a true patriot and a dutiful trustee, he lays strenuous claim to this fund through able and patriotic counsel, invoking the law to point out to him his legal duty in the face of conflicting interests, so that in the end it must be said, "Well done, thou good and faithful patriot and trustee."



### 3. THE COMMISSIONERS OF VALLEY FORGE PARK. CHARACTER OF THE COMMISSION.

The first interest manifested by the Commonwealth of Pennsylvania in the sacred historic spot of Valley Forge was in 1887, when its Legislature appropriated the sum of \$5000 to the Centennial and Memorial Association of Valley Forge for the improvement, extension and preservation of the lands and buildings occupied by General George Washington as his headquarters at Valley Forge during the winter of 1777-8. This was in strict conformity to the chartered purpose of the Association. The Association up to this time struggled hard with poverty. The revenues were insufficient to pay interest upon the \$3000 purchase money mortgage. The Masonic Fraternity had been appealed to for aid without result. A successful appeal had, however, been made to the patriotism of the P. O. S. of A., which paid off the mortgage. But a janitor's lodge was needed, the grounds needed improvement and additional land was wanted, including Washington's Spring and the stone barn which served as a hospital during those suffering days of Revolutionary encampment. It was then that the patriotism of the Commonwealth was appealed to and responded with \$5000, which was applied towards the purposes named.

But it was necessary and desirable to acquire additional grounds in order to make a great public park and military camp commensurate with the importance of the historic events there transacted. It was desirable to acquire ownership of lands whereon had been built the forts, redoubts and entrenchments of those Revolutionary days, and to put them in their original condition as nearly as possible. Roads and paths were needed to make these forts and entrenchments accessible to the public. Fences were needed, a water supply, markers, trees, lawns, etc., etc. The noble efforts of the Centennial and Memorial Association of Valley Forge, materially aided by the patriotic efforts of the P. O. S. of A., awakened the slumbering patriotism of not only Pennsylvania patriots, but of patriotic citizens and Commonwealths throughout the Union. The demands for at least a State, if not a National Park, at Valley Forge, worthy of the Revolutionary heroism displayed there, overleaped the bounds, capacity and purposes of the Centennial and Memorial Association. The outcome was the legislation hereinbefore set out, vesting in the State of Pennsylvania not exceeding 1000 acres of land for Valley Forge Park; creating the Park Commission to maintain the same and the fortifications thereon, as nearly as possible, in their original condition as a military camp, for the enjoyment of

the people of the State; and appropriating, so far, over \$300,000 for said purposes. At first, however, between 1893 and 1904, the State was laboring hand-in-hand with the Centennial and Memorial Association in the noble work, leaving undisturbed the acquisitions and possessions of the Association. But the financial weakness of the Association and the desire to gather all the historic ground of Valley Forge into the public park inspired the Legislature of 1905 to make possible the vesting, condemnation and acquisition by the State of the grounds and headquarters owned by the Association. Ten distinguished Pennsylvania patriots were appointed by Governor Pattison Park Commissioners. Provision is made for organization and supply of vacancies. They were empowered by the Legislature to commence condemnation proceedings for land taken by the State for park purposes where they could not agree with the owners as to price; to adopt plans for the improvement, preservation and maintenance of the Park and carry the same into execution; to make necessary arrangements for the encampment of the National Guard at the pleasure of the Governor as Commander-in-Chief; "to accept, on behalf of the State, any gift or gifts of money or of lands, contiguous or adjacent to the lands taken or to be taken for the said public park, and to be held and used for the purposes thereof; to permit the United States, or any State thereof, to erect monuments or memorials, and to make and maintain police regulations.

Under these powers the Park Commissioners condemned and the State acquired the property and possessions of the Centennial and Memorial Association, and practically destroyed its very life and purpose of existence. But the destruction of the association did not destroy the fruition of the purpose for which the association was created, but enabled the State, through its Park Commissioners, to carry the identical purpose of the Association into fuller execution on a larger and grander scale. Doubtless, if the State had seen fit to appropriate the same sums of money to the Association as it appropriated to the Park Commissioners, the same or similar result, by proper and harmonious management, might have been accomplished. But the State did not see fit to do so. In assuming this burden of government, of which it had theretofore been relieved by the Association, the Commonwealth preferred to acquire sole ownership and control, and to exercise the same through its own chosen body of ten patriotic and distinguished Commissioners.

The wisdom and patriotism of the State's action admits of no serious question. Valley Forge Park, even today, is not only a fitting monument to the he-



roic sufferings of our Revolutionary ancestors, but as well to the patriotism of the State and to all the noble men and women who, in the early movements, contributed their mite and their unselfish labors, and whose names are in any way connected with the Valley Forge Park; and especially to that noble band of pioneer patriots, the Centennial and Memorial Association of Valley Forge, and its financial coadjutor, the P. O. S. of A., and specially of those, to Henry J. Stager.

The certificates of stock issued by the Centennial and Memorial Association of Valley Forge, if they are not today, will in time be treasured as priceless heirlooms to adorn the walls of patriotic homes and camp rooms all over this broad land. Even at the time of issue they were regarded by many holders as certificates of honor, worthy to be taken "in memoriam" of loved patriots who had gone to their reward, or put in the last name of unnamed infants. Even State President Stager, of the P. O. S. of A., aptly told his brothers in an appeal for practical patriotism that, "Each contributor in the sum of \$1 or over will receive a neat certificate which will look well in frame and be a fitting adornment for the wall of a Camp Room."

#### 4. THE VALLEY FORGE CHAPTER, D. A. R.

The Valley Forge Chapter, Daughters of the American Revolution, another claimant of said fund, is a branch of the National Society of the Daughters of the American Revolution. The National Society is a patriotic association, not for profit. It was duly incorporated by Act of the Fifty-fourth Congress of the United States, approved 20th February, 1896, "for patriotic, historical and educational purposes; to perpetuate the memory and spirit of the men and women who achieved American Independence by the acquisition and protection of historical spots and the erection of monuments, by the encouragement of historical research in relation to the Revolution and the publication of its results, by the preservation of documents and relics, and of the records of the individual services of Revolutionary soldiers and patriots, and by the promotion of celebrations of all patriotic anniversaries; to carry out the injunction of Washington in his farewell address to the American people, "to promote, as an object of primary importance, institutions for the general diffusion of knowledge," thus developing an enlightened public opinion and affording to young and old such advantages as shall develop in them the largest capacity for performing the duties of American citizens; to cherish, maintain and extend the institutions of American freedom; to foster true patriot-

ism and love of country, and to aid in securing for mankind all the blessings of liberty."

The Society was also authorized to hold real and personal estate in the United States, as might be necessary to its lawful ends, to an amount not exceeding \$500,000, and might adopt a Constitution and By-Laws not inconsistent with law; and to have its headquarters and principal office at Washington, D. C. The Society adopted a constitution and by-laws. The Constitution provides, inter alia, for the organization of local chapters, states the object of the society to be the same as is set forth in the act of incorporation, women above the age of eighteen years, and who descended from a man or woman who, with unflinching loyalty, rendered material aid to the cause of Independence, or from a recognized patriot, a soldier, or sailor, or civil officer in one of the several Colonies or States, or of the United Colonies or States, are eligible to membership, provided the applicant is acceptable to the Society. The officers of the National Society are a President General; one Vice President General in charge of organization of Chapters; Vice Presidents General, one Recording and one Corresponding Secretary General, one Registrar General, one Treasurer General, one Historian General, one Assistant Historian General, one Chaplain General, and one Librarian General. Provision is also made for the election of honorary members. All legislative and judicial power was vested in the Continental Congress composed of all active officers of the National Society, the State Regent, or in her absence the State Vice Regent, from each State, Territory and the District of Columbia, and the Regents and Delegates of each organized Chapter in the United States and in foreign countries. Each Chapter is entitled to be represented in the Continental Congress by its Regent or her alternate, and one delegate for the first 50 members, and after the first 100, representation shall be in the ratio of one delegate to every subsequent 100. Annual meetings are to be held in Washington, D. C. The administrative body is the National Board of Management, composed of the active officers of the National Society, and one State Regent, or, in her absence, one State Vice-Regent from each State and Territory. Chapters may be organized by twelve members of the Society, living in one locality, after formal authorization by the National Board of Management. They may elect a presiding officer, whose title shall be Regent; a Secretary, a Registrar, and such other officers as may be required, including a local Board of Management. Local Chapters are to be governed by the Constitution of the National Society, but may en-



act By-Laws for their own government in harmony with the Constitution of the National Society.

Valley Forge Chapter of the National Society of the Daughters of the American Revolution was organized at Norristown, Pa., on the 17th December, 1894, and was chartered by the National Society, on the 19th April, 1895, the National Charter number being 115. It is not incorporated by the court or otherwise. It adopted a Constitution and By-Laws, the Constitution setting forth as the objects of the Society—"to perpetuate the memory and the spirit of the men and women who achieved American Independence, by historical research; and preserving the records of the individual services of Revolutionary soldiers and patriots." Membership in the Chapter is similar to membership in the National Society. The officers consist of a Regent, Vice Regent, Registrar, Recording and Corresponding Secretaries, Treasurer, Historian and Chaplain. The Board of Management consists of those officers and two members who shall be elected by the Chapter at the annual meeting. Meetings of the Chapter shall be held on the first Fridays of every month except July, August and September, the place to be decided upon at the previous meeting.

This Chapter furnished a room in Washington's Headquarters at Valley Forge. It meets monthly, at the residence of members, in Norristown, and has, at present, sixty-five members who are residents of Norristown and vicinity. They are organized and hold regular meetings. Some of its members were also actively interested in the Centennial and Memorial Association of Valley Forge. Mrs. Anna M. Holstein, the organizer and first Regent of this Chapter, was the organizer and first Regent of the Centennial and Memorial Association of Valley Forge. This fact is assigned as a reason why this fund should be awarded to the Chapter to erect a monument at Valley Forge in honor of Washington and his brave band of suffering heroes.

#### RECAPITULATION OF CONTROLLING FACTS.

1. The primary object in organizing the Association, principally by patriotic ladies, was to decide upon a fitting memorial to commemorate the occupation and evacuation of the hills of Valley Forge by Washington and his Revolutionary heroes. Washington's Headquarters were deemed a fitting memorial. A Charter was then procured from Court "to purchase, improve and preserve" these Headquarters and adjacent land, and maintain them as a perpetual "Memorial Park."

2. The Headquarters and about five acres of ground were purchased, \$3000 of the purchase price being secured by a pur-

chase money mortgage. Most of the funds expended for these purposes were contributed by the public through dollar subscriptions, fetes and various entertainments. Five Thousand Dollars were appropriated by the State Legislature. Honorary Certificates of Stock were issued to contributors. The grounds were open to the public, but a nominal admission fee was charged to enter the Headquarters. The Association was not conducted for profit, but purely to accomplish a noble and patriotic public purpose, for the improvement or benefit of an indefinite number of persons and the advancement or welfare of the community and public at large, and the maintenance of a public building purchased by the Association as a public memorial to George Washington and his immortal Army of Revolutionary patriots in relief of the State or National Government, free from the stain or taint of every consideration that is personal, private or selfish.

3. The P. O. S. of A. paid off the mortgage, and the same was duly satisfied of record; took for the amount so paid a certificate for 3600 shares of stock and obtained control of the Board of Directors. The Order, its Camps and members, and especially its efficient State President, H. J. Stager, were actuated not by mercenary, but by purely patriotic motives. Their contributions were gifts, not a loan or an investment. They had in view the duty, honor and glory of their patriotic Order, not stock dividends.

4. The Valley Forge Park Commission took, in behalf of the State, the Headquarters and lands of the Association under condemnation proceedings, primarily to do away with the admission fee charged visitors to enter the Headquarters, and in order to acquire all the historic lands and landmarks of Valley Forge for "a public park." For this purpose the State has so far appropriated \$307,115.

5. This Commission is composed of ten distinguished citizens of the State appointed by the Governor, who also fills all vacancies. It organizes annually by the election of a President and Secretary. It is empowered by the State "to adopt plans for the improvement, preservation and maintenance" of the grounds at Valley Forge vested or to be vested in the State for the purpose of perpetuating and preserving the site on which the Continental Army under General Washington was encamped, including his Headquarters and the lands formerly owned by said Association, which the Commission has acquired through condemnation proceedings, and to carry said plans into execution and supervise the expenditure of all money appropriated by the Legislature therefor, and also



"to accept, on behalf of the State, any gift or gifts of money or of lands contiguous or adjacent to the lands taken or to be taken for said public park, and to be held and used for the purposes thereof." The purposes of the State to be carried out through the Park Commission covers completely the purpose of the Centennial and Memorial Association of Valley Forge, namely: "to purchase and improve and preserve the lands and improvements thereon, occupied by General Washington at Valley Forge, and maintain them for a memorial park for all time to come," "appropriate them for historical and humane purposes," and "to collect and preserve relics and objects of interest connected with the Revolutionary War, and especially with Valley Forge." The Valley Forge Park Commission is charged and empowered by law to carry out all these and other cognate purposes.

6. The purpose of Valley Forge Chapter D. A. R. differs greatly from the purpose of the Centennial and Memorial Association of Valley Forge. The chief purposes of the latter was "to purchase, improve and preserve Washington's Headquarters and maintain them as a memorial park." The chief and constitutional object of the former is "to perpetuate the memory and the spirit of the men and women who achieved American independence, by historical research; and preserving the records of the individual services of Revolutionary soldiers and patriots; and the special object is to apply the fund in question to erect at Valley Forge "a monument in honor of Washington and the Continental Army encamped at Valley Forge and who aided in the successful struggle for independence." The purpose of the former is to preserve what has already been erected as a monument; of the latter to erect some other monument; of the former to maintain a memorial park; of the latter to maintain no park at all, but to erect a monument in a park maintained by others. There is no assurance given that these sincere, earnest and patriotic ladies could get the consent of the Valley Forge Park Commission to erect a monument, however worthy upon the ground owned and controlled by the State. The object and intent of the Centennial and Memorial Association of Valley Forge would not be carried into effect by Valley Forge Chapter, D. A. R., under their constitutional and specially resolved object and intent.

7. The P. O. S. of A. is a secret patriotic and beneficial association, not for profit. State Camp of Pennsylvania, P. O. S. of A., is the head of the organization P. O. S. of A. in the State of Pennsylvania. When a subordinate Camp goes out of existence its property goes

to the State Camp. A few subordinate Camps are incorporated by the courts.

8. The Centennial and Memorial Association of Valley Forge was a patriotic association not for profit. To popularize its purpose it started with dollar contributions and issued therefor ornamental certificates of stock.

9. When the Executive Committee of the State Camp appealed to its subordinate Camps and members for aid to pay off the \$3000 mortgage against Washington's Headquarters it was held out that the contributors should become the holders of the mortgage, and thus joint owners of the property; but later it was decided to accept certificates of stock in the Centennial and Memorial Association of Valley Forge (which are now held by H. J. Stager in trust as aforesaid) and get and maintain control of the Board of Directors. Such control was obtained by the Order. Its motive was not ownership or profit, or the return of their contributions, or sale of the shares; but performance of a befitting patriotic duty and investiture with visitorial power. No provision was made for repayment of the contributions on the suspension or dissolution of the Association.

#### CONCLUSIONS OF LAW.

1. The property of the Centennial and Memorial Association of Valley Forge was devoted to charitable uses and was held in trust for the public; the Association was a public charity.

2. The fund for distribution cannot be distributed among its members, or the holders of certificates of stock; but must be applied in furtherance of the charity.

3. The court must supply a Trustee, or distribution must be made to a proper person or body who will carry into effect the intent of the donors so far as the same can be ascertained and carried into effect consistent with law or equity.

4. The Commissioners of Valley Forge Park are a tribunal such as can be appointed as Trustee, or to whom the fund for distribution can be awarded in furtherance of the charity.

5. In view of the pending application to appoint a Trustee, and under the findings of fact the net amount for distribution must be awarded to the Commissioners of Valley Forge Park, provided they are appointed by the court as Trustees under said application; and in default of such appointment then to such person, corporation or body as the court may appoint as trustee, otherwise to said Commissioners as Trustees in furtherance of said charity.

#### DISTRIBUTION.

Balance for distribution as  
shown by the Treasurer's account .....\$15,566.50